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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,375	12/08/2003	Shane A. Toohey	U 014870-1	2857

140 7590 08/24/2006

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EXAMINER

CRABTREE, JOSHUA DAVID

ART UNIT	PAPER NUMBER
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3715

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

EG a

Office Action Summary	Application No.	Applicant(s)	
	10/730,375	TOOHEY ET AL.	
	Examiner	Art Unit	
	Joshua D. Crabtree	3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, there is no transitional phrase to distinguish the preamble from the limitation(s). Consequently, one of ordinary skill in the art would be unable to adequately ascertain the metes and bounds of the invention.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 3 and 4 are rejected under 35 U.S.C. 101 because the claims are directed toward non-statutory subject matter. Specifically, the claims are directed toward an individual, and a group of individuals, respectively. The examiner understands individuals to be human beings, which are not statutory subject matter. See MPEP 2105 [R-1].

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 7, 8, 11, 12, and 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Fast et al. (US 2003/0091970).

With regard to claim 1, Fast et al. disclose a training system comprising a simulation, using interactive audio-visual material (Paragraphs [0016], [0032], [0038]).

With regard to presenting users with sequences of events, Fast et al. disclose a story execution system which presents the events to the user (Paragraph [0017-0018], [0031]; Item 30 in Figs. 1-2). With regard to the events potentially leading to a predefined nominal goal and a user-selected actual goal, and wherein the users select responses to the events so as to attempt to optimize conditions conducive to the achieving of the nominal goal and actual goal, Fast et al. disclose a goal hierarchy which includes a major goal, or parent goal, which is divided into sub-goals (Paragraph [0030]). The user completes goals within the hierarchy during a simulation (Paragraphs [0058-0059]). The user interacts with the simulation through a branching storyline (Paragraph [0053]).

With regard to the adventure being an outdoor adventure experience, Fast et al. disclose that the invention may be used for simulating military operations (Paragraphs [0058 –

0059]). Fast et al. disclose that military simulations may include outdoor activities such as vehicle operation (Paragraph [0005]).

With regard to claim 2, and the limitation wherein the adventure is a training session comprised of any one of a multiplicity of alternative strings of sequences of events; any one of said strings determined by the selection of one of at least two possible responses by the user to sequential ones of said events, Fast et al. disclose that the simulation is presented in a branching storyline manner (Paragraph [0012 - 0015], [0053]). The invention of Fast et al. is used to teach skills to the user (Paragraph [0016]).

With regard to claims 3 and 4, and the limitations wherein the user is an individual or group of individuals, Fast et al. disclose that the number of participants may be more or less than three (Paragraph [0032]).

With regard to claim 5, and the limitation wherein the adventure includes a planning phase wherein a user-selected goal is selected from a predetermined group of possible goals presented by the system to the user, Fast et al. disclose that a plan may be devised which comprises goals to achieve in the simulation (Paragraph [0059]). Additionally, Fast et al. disclose that a user may create new scenarios with corresponding goals (Paragraph [0043]).

With regard to claims 7 and 8, and the limitations wherein the audio-visual material is incorporated in a software program adapted for processing on a personal computer, or a network of personal computers, Fast et al. disclose these features (Paragraphs [0016-0017]; Claim 1).

With regard to claim 11, and the limitation wherein the audio-visual material is in the form of digital data adapted for processing in a virtual reality system, Fast et al. disclose using digital data (Paragraph [0070]). Fast et al. disclose that the invention is directed toward virtual simulation (Paragraphs [0005 - 0006]).

With regard to claim 12, Fast et al. disclose a method for training users utilizing a training system (Paragraph [0002]), comprising audio-visual material (Paragraphs [0031], [0045]). With regard to the adventure being an outdoor adventure experience, Fast et al. disclose that the invention may be used for simulating military operations (Paragraphs [0058 - 0059]). Fast et al. disclose that military simulations may include outdoor activities such as vehicle operation (Paragraph [0005]).

With regard to the limitation of displaying material via audio-visual equipment, fast et al. disclose this feature (Paragraphs [0031-0032]).

With regard to the limitation wherein the adventure includes a planning phase wherein a user-selected goal is selected from a predetermined group of possible goals presented by the system to the user, Fast et al. disclose that a plan may be devised which comprises goals to achieve in the simulation (Paragraph [0059]). Additionally, Fast et al. disclose that a user may create new scenarios with corresponding goals (Paragraph [0043]).

With regard to the limitation wherein the users during the planning phase select from predefined groups of entities, Fast et al. disclose that a plan may be devised which comprises goals to achieve in the simulation (Paragraph [0059]).

With regard to the limitation of the presentation to the users during the execution stage of a sequence of events, each event of the sequence of events accompanied by at least two possible choices of response to the event selectable by the users, Fast et al. disclose a story execution system which presents the events to the user (Paragraph [0017-0018], [0031]; Item 30 in Figs. 1-2). The user interacts with the simulation through a branching storyline (Paragraph [0053]).

With regard to claim 14, and the limitation wherein each sequence of events is one of a multiplicity of possible sequences determined by the selection of responses to each of the events by the users, Fast et al. disclose that the simulation is presented in a branching storyline manner (Paragraph [0012 - 0015], [0053]). The storyline is affected by the participant's behavior (Paragraph [0039]).

With regard to claim 15, and the limitation wherein selection of responses determines the realization of the predefined goal and the user-selected goal, Fast et al. disclose a goal hierarchy which includes a major goal, or parent goal, which is divided into sub-goals (Paragraph [0030]). The user completes goals within the hierarchy during a simulation (Paragraphs [0058-0059]).

With regard to claim 16, and the limitation wherein selection of responses determines the level of achievement of users of the training system, Fast et al. disclose that the participants are monitored, and that their decisions can be labeled "as expected", or "different than expected" (Paragraph [0054]). Additionally, Fast et al.

disclose that the users choices may have drastic effects on the unfolding storyline (Paragraph [0053]).

With regard to claim 17, and the limitation wherein each of said selection of response is recorded for subsequent analysis and feedback to user, Fast et al. disclose an experience manager system which monitors the participants' responses and provides feedback to the participants (Paragraphs [0016 - 0017]).

With regard to claim 18 and the limitation wherein a plurality of groups of participating users are arranged to view on a common display said planning phase and execution phase of each one of the plurality of groups of entities, Fast et al. do not explicitly disclose arranging a group of users to view the exercises on a common display. However, Fast et al. disclose that it is known in the art to incorporate the aforementioned feature into this type of invention (Paragraphs [0007-0010]).

With regard to claims 19 and 20, and the limitation wherein the audio-visual material is incorporated in a software program adapted for processing on a personal computer, Fast et al. disclose this feature (Paragraph [0054]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claim 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fast et al. in view of Kurosawa et al. (US 6,807,521).

With regard to claims 6 and 13, and the limitation wherein the planning phase includes the selection by users of predefined entities from each of predefined groups of entities, said groups including virtual participants to act as proxies for the users, virtual supplies, and virtual items of equipment, Fast et al. disclose that synthetic characters may be used to play the role of a character in the story, or the role of another participant (Paragraph [0041]). Additionally, the invention of Fast et al. is directed toward allowing the user to play a role in a simulation (Paragraphs [0057-0058]). Fast et al. also disclose that the invention could be used for consumer gaming purposes (Paragraph [0002]). Fast et al. do not disclose allowing the user to select virtual supplies and items of equipment. Kurosawa et al. teach a computer based role-playing video game in which the user may select weapons, protective gear, etc. (Col. 4: 54-Col. 5: 6; Col. 8: 42-60). It

would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of Kurosawa et al. into the invention of Fast et al. in order to allow the user to select items and supplies for the mission or scenario. Selecting the appropriate supplies and equipment could be critical to the success of a mission or achievement of a goal.

5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fast et al. in view of Massey (US 2002/0053089).

With regard to claims 9 and 10, Fast et al. do not disclose limitation wherein the audio-visual material is in the form of digital data on a CD ROM. Massey teaches an interactive entertainment system, which utilizes branching storylines (Paragraph [0002]). Massey also teaches that the content may be stored on a CD or DVD (Paragraph [0037]). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate utilize a CD ROM or DVD for storage of the audio-visual content.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Butcher et al. (US 5,752,883) disclose a method and system for managing role playing game information.

Baker et al. (US 6,106,399) disclose an Internet multi-user role playing game.

Lannert et al. (US 7,054,848) disclose a goal-based system utilizing a time-based model.

Paschal (US 2006/0064352) teaches a strategic business simulation.

Garnett (US 6,866,515) teaches a method for providing business conduct training.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D. Crabtree whose telephone number is 571-272-8962. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jc
Joshua D. Crabtree
August 7, 2006

Kathleen Mosser
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PRIMARY EXAMINER